

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

TIMOTHY W. HANRAHAN, JR.,

Plaintiff,

v.

**9:07-CV-610
(FJS/ATB)**

DR. MENON,¹ Herkimer County Mental Health; EDGAR SCUDDER, Director of Community Services, Herkimer County Mental Health; HERKIMER COUNTY CORRECTIONAL FACILITY; CAPT. MCGRAIL, Superintendent, Herkimer County Correctional Facility; SHANNON URTZ, RN, Medical Department, Herkimer County Correctional Facility; and HON. CHRISTOPHER FARBER, Policymaker for Herkimer County Correctional Facility,

Defendants.

APPEARANCES

OF COUNSEL

TIMOTHY W. HANRAHAN, JR.
08-A-1306
Buffalo Correctional Facility
P.O. Box 300
Alden, New York 14004
Plaintiff *pro se*

**SMITH, SOVIK, KENDRICK,
AND SUGNET, P.C.**
250 South Clinton Street, Suite 600
Syracuse, New York 13202
Attorneys for Defendant Dr. Mennon

**KEVIN E. HULSLANDER, ESQ.
MICHELLE M. DAVOLI, ESQ.**

¹ Although the Docket reflects the spelling of this Defendant's name as "Mennon," the proper spelling is "Menon; and the Court will use the correct spelling in this Memorandum-Decision and Order.

**MURPHY, BURNS, BARBER
& MURPHY, LLP**

226 Great Oaks Boulevard
Albany, New York 12203
Attorneys for Defendants Scudder,
Herkimer County Correctional
Facility, McGrail, Urtz, and Farber

THOMAS K. MURPHY, ESQ.

SCULLIN, Senior Judge

ORDER

Plaintiff Timothy W. Hanrahan, Jr. commenced this action by filing a civil rights complaint on June 8, 2007. *See* Dkt. No. 1. In his *pro se* complaint, Plaintiff alleged that, while he was an inmate in the Herkimer County Correctional Facility ("HCCF"), employees of that facility, as well as two individuals from Herkimer County Mental Health, Defendant Dr. Menon and Defendant Edgar Scudder, were deliberately indifferent to his serious medical needs.² *See id.* Plaintiff claimed that Herkimer County Mental Health, which had the responsibility to treat mental health problems at HCCF, denied him treatment and medications. *See id.* at ¶¶ 1-5.

On March 11, 2008, Defendant Dr. Menon filed a motion for summary judgment, arguing only that she was not personally involved in Plaintiff's care. *See* Dkt. No. 20. By Report-Recommendation filed on March 5, 2009, Magistrate Judge DiBianco recommended that this Court deny Defendant Dr. Menon's motion without prejudice because the evidence submitted showed that "there [were] genuine issues of material fact in dispute about Dr. Menon's personal involvement" in making decisions regarding Plaintiff's care. *See* Dkt. No. 42 at 12. Currently before the Court are Defendant Dr. Menon's objections to that recommendation. *See* Dkt. No.

² Defendant Dr. Menon is a psychiatrist; and Defendant Edgar Scudder is the Director of Herkimer County Mental Health Department.

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Before this Court had the opportunity to review Defendant Dr. Menon's objections, Plaintiff moved to amend his complaint. *See* Dkt. No. 48. In his motion to amend, Plaintiff requested permission to add "Capt. McGrail, Superintendent, Herkimer County Correctional Facility;" "Shannon Urtz, RN, Medical Department, Herkimer County Correctional Facility;" and "Hon. Christopher Farber, Policymaker for Herkimer County Correctional Facility" as defendants to this action and to assert allegations of wrongdoing against them in relation to Plaintiff's claim that, during his incarceration at HCCF beginning in April 2007, Defendants denied him mental health treatment in deliberate indifference to his serious medical needs.

In a Memorandum-Decision and Order dated January 21, 2010, this Court granted his motion. *See* Dkt. No. 58. The Court also instructed the Clerk of the Court to "file the approved proposed amended complaint . . . as the Amended Complaint, which will supersede and replace *in toto* the original complaint" *See id.* at 5. In addition, the Court ordered Defendant Dr. Menon, among others, "to respond to the amended complaint **within thirty (30) days** of the date of this Memorandum-Decision and Order." *See id.* at 6. Defendant Dr. Menon filed her answer to the amended complaint on February 5, 2010. *See* Dkt. No. 65.

In light of the fact that the Court granted Plaintiff's motion to amend his complaint and that his amended complaint has replaced his original complaint in its entirety, Defendant Dr. Menon's motion for summary judgment, directed as it was to the original complaint, is now moot. Accordingly, the Court hereby

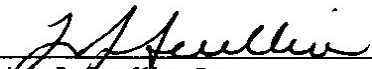
³ Plaintiff filed a document in "opposition" to Defendant Dr. Menon's objections. *See* Dkt. No. 47.

ORDERS that Magistrate Judge DiBianco's March 5, 2009 Report-Recommendation is **REJECTED** because the motion that it addressed is now **moot**; and the Court further

ORDERS that this matter is remanded to Magistrate Judge Baxter for all further pretrial matters.

IT IS SO ORDERED.

Dated: March 14, 2010
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge